

DAJ

#17

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)		Docket Number (Optional) 4002-2236	
First Named Inventor Coates			
Application No. 09/448,086		Art Unit 3738	
Filed November 23, 1999		Examiner Isabella	
Title BONE GRAFTS			
<p>Attention: Office of Petitions Mail Stop Petition Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450 Fax (703) 872-9306</p> <p style="text-align: right;">RECEIVED APR 20 2005 OFFICE OF PETITIONS</p> <p>Note: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.</p> <p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.</p> <p style="text-align: center;">APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</p> <p>Note: A grantable petition requires the following items:</p> <ul style="list-style-type: none">(1) Petition fee;(2) Reply and/or issue fee;(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995, and for all designed applications; and(4) Statement that the entire delay was unintentional. <p>1. Petition fee</p> <p><input type="checkbox"/> Small-entity fee \$_____ (37 CFR 1.17(mm)). Applicant claims small entity status. See 37 CFR 1.27.</p> <p><input checked="" type="checkbox"/> Other than small-entity fee \$1,500 (37 CFR 1.17(mm)).</p> <p>2. Reply and/or fee</p> <p>A. The reply and/or fee to the above-noted Office Action in the form of <u>Exhibits A & B</u> (identify type of reply)</p> <p><input type="checkbox"/> has been filed previously on _____.</p> <p><input checked="" type="checkbox"/> is enclosed herewith.</p> <p>B. The issue fee and publication fee (if applicable) of \$_____</p> <p><input type="checkbox"/> has been paid previously on _____.</p> <p><input type="checkbox"/> is enclosed herewith.</p>			

04/19/2005 EAREGAY1 00000013 09448086

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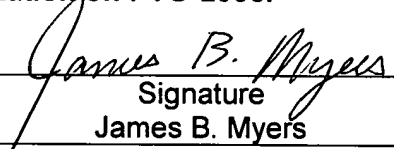
Petition for Revival (Unintentional)
Coates, USSN 09/448,086
JBM.le.336171

3. Terminal disclaimer with disclaimer fee:

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing of a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

 Signature James B. Myers Typed or Printed Name	April 14, 2005 Date 42,021 Registration Number, if applicable
Woodard, Emhardt, Moriarty, McNett & Henry LLP Bank One Center/Tower 111 Monument Circle, Suite 3700 Indianapolis, IN 46204-5137 Address	(317) 634-3456 Telephone

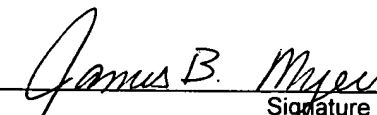
- Enclosures: ☒ Fee Payment (PTO-2038 Credit Card)
☒ Reply
☒ Terminal disclaimer form
☐ Additional sheets containing statements establishing unintentional delay
☒ Other: Statement in Support of Petition, Request for Continued Examination, return receipt postcard

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

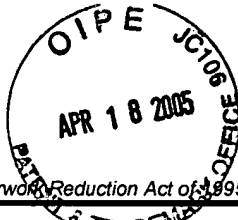
- ☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

April 14, 2005
Date


Signature

James B. Myers

Typed or printed name of person signing certificate



WENMM/le SB/17 (12-04)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27TOTAL AMOUNT OF PAYMENT (\$)**2420**

Complete if Known	
Application Number	09/448,086
Filing Date	November 23, 1999
First Named Inventor	Coates
Examiner Name	Isabella
Art Unit	3738
Attorney Docket No.	4002-2236

RECEIVED

APR 20 2005

OFFICE OF PETITIONS

METHOD OF PAYMENT (check all that apply)

☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☐ Deposit Account Deposit Account number: **23-3030** Deposit Account Name: **Woodard, Emhardt, Moriarty, Mcnett & Henry LLP**

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments to the above-identified deposit account.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
-20 or HP	=-20	x	=0	x	=0	

HP = highest number of total claims paid for, if greater than 20

Independent Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
-3 or HP	=-3	x	=0

HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 419a(1)(G) and 37 C.F.R. 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
____ -100	<u>=-10</u>	<u>/50</u>	<u>=-2 (round up to a whole number)</u>	<u>x</u>
				<u>0</u>

4. OTHER FEE(S)

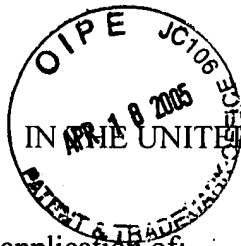
Request For Continued Examination	Fee Paid (\$)
Petition To Revive An Application For Patent Abandoned Unintentionally	790
Terminal Disclaimer	1500
	130

SUBMITTED BY

Signature	<i>James B. Myers</i>	Registration No. (Attorney/Agent)	42,021	Telephone	(317) 634-3456
Name (Print/Type)	James B. Myers	Date	April /4, 2005		

Doc #340297

04/19/2005-FAREDAY 1 00000013 09448086 130-00-00 03-EC-1014



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Bradley J. Coates et al.

Serial No. 09/448,086

Filed: November 23, 1999

BONE GRAFTS

)
) Examiner
) Isabella
)
) Group Art Unit
) 3738
)
)
)

RECEIVED

APR 20 2005

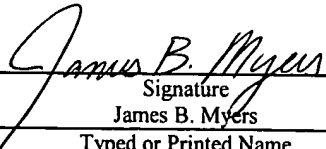
OFFICE OF PETITIONS

STATEMENT IN SUPPORT OF PETITION

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In this Statement, the undersigned respectfully requests that the Commissioner withdraw the holding of abandonment for the above-identified application pursuant to his authority under 37 CFR §1.137(b). Authorization to charge the Statutory Fee for the Petition to Revive and the RCE is provided in the accompanying form PTO-2038. Please charge any additional fees or refund any overpayments to deposit account 23-3030, but do not include the payment of any issue fees that are or may become due.

Certificate of Mailing under 37 CFR 1.8
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on:
April 14, 2005
Date

Signature
James B. Myers
Typed or Printed Name
42,021
Registration No.
(317) 634-3456
Telephone Number

Statement Of The Facts

The undersigned declares and states as follows:

1. A US Patent Application Serial No. 09/448,086 ("the subject application") was filed on November 23, 1999 and claimed priority to prior US Patent Application Serial No. 08/948,135 (now US Patent No. 5,989,289) which is a Continuation of 08/902,937 (now abandoned) which is a Continuation-in-Part of 08/740,031 (now abandoned) which is a Continuation-in-Part of 08/603,676 (now abandoned) which is a Continuation-in-Part of 08/543,563 (now abandoned) which is a Continuation-in-Part of 08/603,675 (now abandoned) which is a Continuation-in-Part of 08/543,563 (now abandoned).

2. During prosecution of the subject application, an Office Action Made Final and dated August 14, 2001 was received. In that Office Action, claims 1-19 were rejected under a non-statutory double-patenting rejection over US Patent No. 5,989,289, the patent issued from the parent application of the subject application.

3. In response, the undersigned attorney signed and submitted an Amendment and Response to Final Office Action under 37 CFR 1.116 with a certificate of mailing pursuant to 37 CFR 1.8 dated November 14, 2001 and requested Expedited Examination Procedure ("the Response"). In addition to the Response, the undersigned attorney signed and submitted a Terminal Disclaimer. True and accurate copies of the Response and the Terminal Disclaimer with attachments are appended to this petition as Exhibit A.

4. A Notice of Abandonment for the subject application dated May 1, 2002 was received. The Notice of Abandonment stated: a. that the Response was received on January 17, 2002, and b. that the Terminal Disclaimer filed concurrent with the amendment was not proper since the person who signed the Terminal Disclaimer is not listed as an attorney of record.

5. It is noted that the undersigned attorney signed and submitted on Information Disclosure Statement, a Response to First Office Action, a Response to Final Office Action, and the Terminal Disclaimer pursuant to 37 CFR §1.36(a).

6. Further, it is noted that the US Patent and Trademark Office acknowledged receipt of the Response and Terminal Disclaimer on January 17, 2002, approximately one month prior to the end of the statutory period for responding to the Office Action. The undersigned attorney actually submitted the Response and Terminal Disclaimer on November 14, 2001 within the three-month shortened statutory period for replying to the Final Office Action. The

Response and Terminal Disclaimer included a certification by the undersigned attorney under 37 CFR §1.8.

7. The undersigned attorney never received an Advisory Action in this case apprising him of any deficiencies in the Response to Final Office Action.

8. The undersigned submitted a Petition to Withdraw the Holding of Abandonment on June 20, 2002, which requested withdrawal of the holding of abandonment under 37 CFR §1.181 or, in the alternative, under 37 CFR §1.37(a) and/or (b). The undersigned received a Decision of the Petition on December 12, 2003 denying the petition under 37 CFR §1.181.

9. The undersigned telephoned the Office of Petitions on January 20, 2004; February 5, 2004; March 4, 2004; July 13, 2004; July 14, 2004; July 15, 2004; and July 16, 2004 to follow up on the petition and to request consideration in the alternative under 37 CFR §1.137(a) and/or (b) after which time the undersigned received a Decision on Petition denying the petition under 37 CFR §1.137(a) but holding the petition under 37 CFR §1.137(b) in abeyance.

10. The undersigned was then informed that the petition had been forwarded to the Examiner in charge of the case for consideration. The undersigned followed up telephonically with the Examiner on December 8, 2004 and again on January 18, 2005 but did not receive a notification of when the petition would be acted upon.

11. In light of the above, the undersigned hereby submits a new Petition for Revival of the Application under 37 CFR §1.37(b).

12. The undersigned also submits herewith as Exhibit B a true and accurate copy of the Terminal Disclaimer previously submitted on June 20, 2002, signed by an attorney of record.

13. Authorization to charge the Statutory Fee for the Terminal Disclaimer is provided on the accompanying form PTO-2038. Please charge any additional fees or credit any overpayments to Deposit Account No. 23-3030.

14. The undersigned respectfully requests that the Commissioner exercise his supervisory authority and withdraw the holding of abandonment for the subject application.

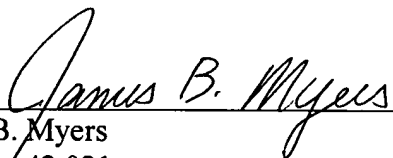
15. The undersigned respectfully requests that the Response to Final Office Action filed on November 14, 2001 appended herewith as Exhibit A be entered; that the Terminal Disclaimer filed on June 20, 2002 and appended herewith as Exhibit B be entered; and that the subject application be passed to issuance. Furthermore, the undersigned also submits a Request

for Continued Examination in this case to allow the Examiner to fully consider the claim amendments in the Response to Final Office Action.

16. The undersigned states that the entire delay in filing the required reply from the due date until the filing of the grantable petition pursuant to 35 USC. § 1.137(b) was unintentional.

17. I declare that all statements made herein of my own knowledge are true and that all statements made on information are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

By: 
James B. Myers
Reg. No. 42,021
Woodard, Emhardt, Moriarty McNett & Henry LLP
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137
(317) 713-4948

RECORDATION FORM COVER SHEET
CONTINUATION
PATENTS ONLY

U.S. Department of Commerce
Patent and Trademark Office
PATENT

Conveying Party(ies)

☐ Mark if additional names of conveying parties attached

Enter additional Conveying Parties

Name (line 1) Jeffery W. Poyner

Execution Date
Month Day Year
10 3 97

Name (line 2)

Name (line 1)

Execution Date
Month Day Year

Name (line 2)

Name (line 1)

Execution Date
Month Day Year

Name (line 2)

Receiving Party(ies)

☐ Mark if additional names of receiving parties attached

Enter additional Receiving Party(ies)

Name (line 1)

Name (line 2)

Address (line 1)

Address (line 2)

Address (line 3) City State/Country Zip Code

☐ If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached. (Designation must be a separate document from Assignment.)

Name (line 1)

Name (line 2)

Address (line 1)

Address (line 2)

Address (line 3) City State/Country Zip Code

☐ If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached. (Designation must be a separate document from Assignment.)

Application Number(s) or Patent Number(s)

☐ Mark if additional numbers attached

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

Patent Application Number(s)

08/948,135		

Patent Number(s)

ASSIGNMENT

WHEREAS, Bradley A. Coates, James Van Hoeck and Jeffery Poyner, of 1760 Nuckolls Road, Rossville, TN 38066; 754 Tealwood Lane, Cordova, TN 38018; and 234 Oxford Drive, Atoka, TN 38004, hereinafter referred to as Assignors, have made a new and useful invention in **BONE GRAFT** for which Assignors have made or will make application for Letters Patent of the United States; and

WHEREAS, SDGI Holdings, Inc., hereinafter referred to as Assignee, a corporation of the State of Delaware having a principal place of business 1800 Pyramid Place, Memphis, TN 38132 desires to acquire all of the entire right, title, and interest in, to and under said invention disclosed, described and claimed or intended so to be in said application, and in, to and under said application, and in, to and under any and all Letters Patent, United States and foreign, which may be obtained therefor and thereon;

NOW, THEREFORE, to all whom it may concern, be it known that for an in consideration of the sum of One Dollar (\$1.00) and other good, valuable and sufficient considerations to Assignors in hand paid, the receipt of which is hereby acknowledged, Assignors have sold, assigned and transferred, and by these presents do sell, assign and transfer unto Assignee, all of the entire right, title, and interest in, to and under said invention disclosed, described and claimed or intended so to be in said application, and in, to and under said application for United States Letters Patent executed by Assignors this 3rd day of October, 1997, and any and all other applications thereon and arising therefrom, including any and all divisions and continuations thereof,

and any and all patents to be issued and obtained therefor and thereon, United States and foreign, including all reissues and extensions thereof.

Assignors hereby authorize and request the firm of Woodard, Emhardt, Naughton, Moriarty & McNett of Bank One Center Tower, 111 Monument Circle, Suite 3700, Indianapolis, Indiana 46204-5137 to insert here in parentheses (**) the date and serial number of said application when officially known and Assignors hereby authorize and request the Honorable Assistant Secretary and Commissioner of Patents and Trademarks to issue said Letters Patent to Assignee, its assigns and legal representatives.

Assignors agree to assign and execute any and all other papers necessary or desirable for the procurement of Letters Patent on said invention in this and all foreign countries for the use of Assignee.

**Serial No. 08/948,135
Filed October 9, 1997

WITNESS Assignors' hands this 3rd day of October, 1997.

Bradley A. Coates
Bradley A. Coates
J. B. Coates
JV4

James E. Van Hoeck
James Van Hoeck

Jeffrey W. Poyner
Jeffery Poyner
Jeffrey W. Poyner JWP
JV4



UNITED STATES
PATENT AND
TRADEMARK OFFICE

MARCH 19, 2002

PTAS

WOODARD, EMHARDT, NAUGHTON, ET AL
JAMES B. MYERS, JR.
111 MONUMENT CIRCLE, STE. 3700
INDIANAPOLIS, IN 46204-5137

RECEIVED
MAR 25 2002

Woodard, Emhardt, Naughton,
Mortarty & McNett

Chief Information Officer
Washington, DC 20231
www.uspto.gov



101963867A

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 01/17/2002

REEL/FRAME: 012491/0666
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

COATES, BRADLEY J.

DOC DATE: 10/03/1997

ASSIGNOR:

VAN HOECK, JAMES

DOC DATE: 10/03/1997

ASSIGNOR:

POYNTER, JEFFREY W.

DOC DATE: 10/03/1997

ASSIGNEE:

SDGI HOLDINGS, INC.
1800 PYRAMID PLACE
MEMPHIS, TENNESSEE 38132

SERIAL NUMBER: 09448086

PATENT NUMBER:

FILING DATE: 11/23/1999

ISSUE DATE:

012491/0666 PAGE 2

TONYA LEE, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

01-25-2002

WENMM-1595 (05/01)

Form PTO-1595
(Rev. 03/01)
OMB No. 0651-0027 (exp. 5/31/2002)



ET U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

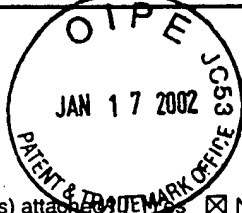
Tab settings → → →

101963867

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Bradley J. Coates
James Van Hoeck
Jeffrey W. Poynter



2. Name and address of receiving party(ies)

Name: SDGI Holdings, Inc.

Internal Address: _____

Street Address: 1800 Pyramid PlaceCity: Memphis State: Tennessee Zip: 38132Additional name(s) of conveying party(ies) attached? ☒ Yes ☐ No

3. Nature of conveyance:

- ☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other _____

Execution Date: October 3, 1997Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or registration number(s):

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s)
09/448,086

B. Patent No.(s)

Additional number(s) attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: James B. Myers, Jr.

Internal Address: Woodard, Emhardt, Naughton, Moriarty
& McNett

Street Address: Bank One Center/Tower, 111 Monument
Circle, Suite 3700

City: Indianapolis State: Indiana Zip: 46204-5137

6. Total number of applications and patents involved

1

7. Total fee (37 CFR 3.41).....\$ 40.00

- ☒ Enclosed
☐ Authorized to be charged to deposit account

8. Deposit account number:

23-3030

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

James B. Myers, Jr.
Name of Person Signing

James B. Myers Jr
Signature

November 14, 2001
Date

Total number of pages including cover sheet, attachments, and document:

9

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patent & Trademarks, Box Assignments
Washington, D.C. 20231

01/23/2002 MWOLJER1 00000124 233030 09448086

02 FC:581

40.00 OF

1-17-02

ASSIGNMENT

WHEREAS, Bradley A. Coates, James Van Hoeck and Jeffery Poyner, of 1760 Nuckolls Road, Rossville, TN 38066; 754 Tealwood Lane, Cordova, TN 38018; and 234 Oxford Drive, Atoka, TN 38004, hereinafter referred to as Assignors, have made a new and useful invention in **BONE GRAFT** for which Assignors have made or will make application for Letters Patent of the United States; and

WHEREAS, SDGI Holdings, Inc., hereinafter referred to as Assignee, a corporation of the State of Delaware having a principal place of business 1800 Pyramid Place, Memphis, TN 38132 desires to acquire all of the entire right, title, and interest in, to and under said invention disclosed, described and claimed or intended so to be in said application, and in, to and under said application, and in, to and under any and all Letters Patent, United States and foreign, which may be obtained therefor and thereon;

NOW, THEREFORE, to all whom it may concern, be it known that for an in consideration of the sum of One Dollar (\$1.00) and other good, valuable and sufficient considerations to Assignors in hand paid, the receipt of which is hereby acknowledged, Assignors have sold, assigned and transferred, and by these presents do sell, assign and transfer unto Assignee, all of the entire right, title, and interest in, to and under said invention disclosed, described and claimed or intended so to be in said application, and in, to and under said application for United States Letters Patent executed by Assignors this 3rd day of October, 1997, and any and all other applications thereon and arising therefrom, including any and all divisions and continuations thereof,

and any and all patents to be issued and obtained therefor and thereon, United States and foreign, including all reissues and extensions thereof.

Assignors hereby authorize and request the firm of Woodard, Emhardt, Naughton, Moriarty & McNett of Bank One Center Tower, 111 Monument Circle, Suite 3700, Indianapolis, Indiana 46204-5137 to insert here in parentheses (**) the date and serial number of said application when officially known and Assignors hereby authorize and request the Honorable Assistant Secretary and Commissioner of Patents and Trademarks to issue said Letters Patent to Assignee, its assigns and legal representatives.

Assignors agree to assign and execute any and all other papers necessary or desirable for the procurement of Letters Patent on said invention in this and all foreign countries for the use of Assignee.

**Serial No. 08/948,135
Filed October 9, 1997

WITNESS Assignors' hands this 3rd day of October, 1997.

Bradley A. Coates
Bradley A. Coates
J. B. Coates
SVL

James E. Van Hoeck
James Van Hoeck

Jeffery W. Poyner
Jeffery Poyner
Jeffrey W. Poyner JWP
JWP



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

OCTOBER 28, 1998

PTAS

WOODARD, EMHARDT ET AL
J. ANDREW LOWES
111 MONUMENT CIRCLE, SUITE 3700
BANK ONE CENTER/TOWER
INDIANAPOLIS, INDIANA 46204-5137



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RECORDATION DATE: 08/07/1998

REEL/FRAME: 9366/0071
NUMBER OF PAGES: 7

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
COATES, BRADLEY J.

DOC DATE: 10/03/1997

ASSIGNOR:
VAN HOECK, JAMES

DOC DATE: 10/03/1997

ASSIGNOR:
POYNER, JEFFERY W.

DOC DATE: 10/03/1997

ASSIGNEE:
SDGI HOLDINGS, INC.
1800 PYRAMID PLACE
MEMPHIS, TENNESSEE 38132

SERIAL NUMBER: 08948135
PATENT NUMBER:

FILING DATE: 10/09/1997
ISSUE DATE:

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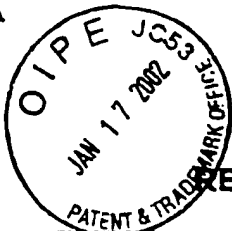
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9366/0071 PAGE 2

STEVEN POST, EXAMINER
ASSIGNMENT DIVISION
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08-11-1998

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Name (line 1) Bradley J. Coates

Name (line 2)

Second Party

Name (line 1) James Van Hoeck

Execution Date
Month Day Year
10 3 97

Name (line 2)

Receiving Party

- ☐ Mark if additional names of receiving parties attached

Name (line 1) SDGI Holdings, Inc.

Name (line 2)

Address (line 1) 1800 Pyramid Place

Address (line 2)

Address (line 3) Memphis Tennessee USA 38132

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08/11 00000015 0894135 40.00 00
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Correspondent Name and Address

Area Code and Telephone Number

(317) 634-3456

Name J. Andrew Lowes

Address (line 1) Woodard, Emhardt, Naughton, Moriarty & McNett

Address (line 2) 111 Monument Circle, Suite 3700

Address (line 3) Bank One Center/Tower

Address (line 4) Indianapolis, Indiana 46204-5137

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

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Application Number(s) or Patent Number(s)☐ Mark if additional numbers attached

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

Patent Application Number(s)

08/948,135

Patent Number(s)

If this document is being filed together with a new Patent Application, enter the date the patent application was signed by the first named executing inventor.

Month Day Year

Patent Cooperation Treaty (PCT)Enter PCT application number
only if a U.S. Application Number
has not been assigned.PCT PCT PCT
PCT PCT PCT**Number of Properties**

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): \$ 40.00

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Deposit AccountEnclosed ☒ Deposit Account ☐

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23-3030

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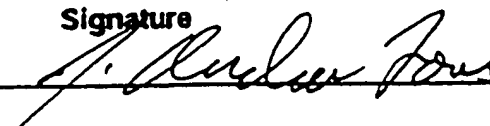
Yes ☒ No ☐**Statement and Signature**

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Name of Person Signing

J. Andrew Lowes

Signature



Date

August 4, 1998

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Conveying Party(ies)

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Name (line 1) Jeffery W. Poyner

Execution Date
Month Day Year

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Name (line 2)

Name (line 1)

Execution Date
Month Day Year

Name (line 2)

Name (line 1)

Execution Date
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Name (line 2)

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Address (line 1)

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Patent Application Number(s)

Patent Number(s)

08/948,135

DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION

Docket No. 4002-1643

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention in **BONE GRAFT**, the specification of which

(check one) ☒ is attached hereto.
☐ was filed on _____ as Application Serial No. _____
and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			Priority Claimed	
------------------------------	--	--	------------------	--

_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	Yes	No
-------------------	--------------------	---------------------------------	-----	----

_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	Yes	No
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_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	Yes	No
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I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided

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EXHIBIT

C

by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

(Application Serial No.)	(Filing Date)	(Status - patent/pending/abandoned)
--------------------------	---------------	-------------------------------------

(Application Serial No.)	(Filing Date)	(Status - patent/pending/abandoned)
--------------------------	---------------	-------------------------------------

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Harold R. Woodard, No. 16,214; C. David Emhardt, No. 18, 483; Joseph A. Naughton, Jr., No. 19, 814; John V. Moriarty, No. 26,207; John C. McNett, No. 25,533; Thomas Q. Henry, No. 28,309; James M. Durlacher, No. 28,840; Charles R. Reeves, No. 28,750; Vincent O. Wagner, No. 29,596; Steve Zlatos, No. 30,123; Spiro Bereveskos, No. 30,821; William F. Bahret, No. 31,087; Clifford W. Browning, No. 32,201; R. Randall Frisk, No. 32,221; Daniel J. Lueders, No. 32,581; Michael D. Beck, No. 32,722; Kenneth A. Gandy, No. 33,386; Timothy N. Thomas, No. 35,714; Kerry P. Sisselman, No. 37,237; Kurt N. Jones, No. 37,996; John H. Allie, No. 39,088; Jeffrey A. Michael, No. 37,394; Deborah R. Beck, No. 37,370; Holiday W. Banta, No. 40,311; Troy J. Cole, No. 35,102; L. Scott Paynter, No. 39,797; Lisa A. Hiday, No. 40,036; Darrin Wesley Harris, No. P40,636; Matthew R. Schantz, No. P40,800; and Gregory B. Coy, No. P40,967.

Address all telephone calls to:	Michael D. Beck at (317) 634-3456
Address all correspondence to:	Michael D. Beck, Esquire Woodard, Emhardt, Naughton, Moriarty & McNett Bank One Center/Tower 111 Monument Circle, Suite 3700 Indianapolis, Indiana 46204-5137

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Full name of sole or first inventor: Bradley A. Coates ^{205 JWH}

Inventor's

Signature: Bradley A. Coates

Date of Signature: 10/1/97

Residence: 1760 Nuckolls Road, Rossville, TN 38066

Citizenship: U.S.A.

Post Office Address: 1760 Nuckolls Road, Rossville, TN 38066

Full name of second inventor: James Van Hoeck

Inventor's

Signature: James E. Van Hoeck

Date of Signature: 9-30-97

Residence: 754 Tealwood Lane, Cordova, TN 38018

Citizenship: U.S.A.

Post Office Address: 754 Tealwood Lane, Cordova, TN 38018

Full name of third inventor: Jeffery Poyner ^{205 JWH}

Jeffrey W. Poyner

Inventor's

Signature: Jeffrey W. Poyner

Date of Signature: 9/30/97

Residence: 234 Oxford Drive, Atoka TN 38004

Citizenship: U.S.A.

Post Office Address: 234 Oxford Drive, Atoka TN 38004

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Initials/Date: JBM/1g 6/20/02

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Serial No. 09/448,086

Applicant Coates et al.
BONE GRAFTS

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~~(X) Exhibits~~

(x) Exhibit A

(x) Exhibit B

(x) ~~Exhibit C~~

() Application #_____of pages

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() Information Disclosure Statement

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() Amendment/ Response to Office Action

() Request for Extension of Time

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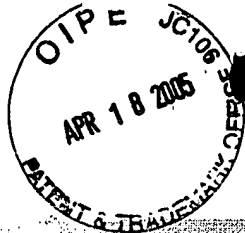
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**RESPONSE UNDER 37 C.F.R. §1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3738**

DNK-1997-010-PA-CON2:JBM:139484

Atty. Dkt. 4002-2236

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)
) Examiner
Bradley J. Coates et al.) Isabella
)
Serial No. 09/448,086)
) Group Art Unit 3738
Filed: November 23, 1999)
) Submitted
BONE GRAFTS) November 14, 2001

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on: November 14, 2001

JAMES B. MYERS, JR.
Name of Registered Representative

James B. Myers Jr
Signature

November 14 2001
Date of Signature

AMENDMENT AND RESPONSE TO FINAL OFFICE ACTION
UNDER 37 C.F.R. §1.116

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OFFICE OF PETITIONS

Hon. Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated August 14, 2001, Applicants respectfully request entry of the following amendments and consideration of the accompanying remarks. Marked up copies of the amended claims are attached to this Response on a separate sheet entitled Version with Markings to Show Changes. An Assignment, Assignment Transmittal Form and a Terminal Disclaimer are filed concurrent with this Response. Additionally, please provide any extensions of time that may be necessary and charge any fees that may be due to Deposit Account No. 23-3030, but do not include any payment of issue fees that are or may become due.

AMENDMENTS

Please amend the following claims:

20. (Amended) A bone graft for insertion between adjacent vertebrae, said graft comprising a cortical bone slice from a long bone, said cortical bone slice comprising:
a substantially planar superior bone engaging surface;
an opposite inferior bone engaging surface; and
a wall provided between the superior bone engaging surface and the inferior bone engaging surface, said wall comprising an anterior wall portion having a convexly curved exterior surface, and an opposite posterior wall portion, wherein the graft comprises a first set of migration resistant surface features comprising grooves, teeth, blades or a combination thereof.

24. (Amended) The graft of claim 20 comprising a second set of migration resistant surface features.

Please add the following claims:

29. (Added) The graft of claim 20 wherein the inferior bone engaging surface is substantially planar.

30. (Added) The graft of claim 20 wherein the superior bone engaging surface and the inferior bone engaging surface include migration resistant surface features.

31. (Added) A bone graft for insertion between adjacent vertebrae, said graft comprising a cortical bone slice from a long bone, said cortical bone slice comprising:
a superior bone engaging surface;
an opposite inferior bone engaging surface; and
a first lateral wall positioned between the inferior bone engaging surface and the superior bone engaging surface and provided to lie substantially perpendicular to the superior bone engaging surface; said lateral wall positioned between a posterior wall and an anterior wall having a convexly curved exterior surface, and wherein said graft comprises a first set of migration resistant surface features selected from the group consisting of: grooves, teeth, blades or a combination thereof.

32. (Added) The graft of claim 31 comprising a second lateral wall opposite the first lateral wall.

33. (Added) The graft of claim 32 wherein the second lateral wall is provided to lie substantially perpendicular to the superior bone engaging surface.

34. (Added) The graft of claim 31 wherein the posterior wall is substantially planar.

35. (Added) The graft of claim 31 wherein the first set of migration resistant surface features are arranged in series.

36. (Added) The graft of claim 31 comprising a second set of migration resistant surface features.

37. (Added) The graft of claim 31 comprising an interior chamber.

38. (Added) The graft of claim 37 wherein the bone engaging superior surface defines a first opening and the inferior bone engaging surface defines a second opening, wherein each of the first and second openings are in communication with the chamber.

39. (Added) The graft of claim 31 comprising an osteoinductive material.

40. (Added) The graft of claim 31 comprising cancellous bone material.

41 (Added) The graft of claim 30 wherein the superior bone engaging surface and the inferior bone engaging surface comprise migration resistant surface features.

REMARKS

Entry of the above amendments and consideration of the following remarks are respectfully requested. Upon entry of the above amendments, this application will contain claims 1-41 pending and under consideration. Claims 1-19 stand rejected under the judicially created doctrine of obviousness-type double patenting over the claims of Coates et al. (U.S. Patent No. 5,989,289). Claims 20-28 stand rejected under 35 U.S.C. §102(b) over Carter et al. (WO/97/25,945). For the reasons discussed below, Applicants believe that the claimed invention is patentable over the cited art and request reconsideration leading to timely allowance of this application.

Obviousness-Type Double Patenting Rejections

Claims 1-19 were rejected under the judicially created doctrine of obviousness-type double patenting over the claims of Coates et al. (U.S. Patent No. 5,989,289). Applicants' Attorney submits concurrent with this Response a Terminal Disclaimer to disclaim the terminal part of any patent granted on the present application that would extend beyond the expiration date of U.S. Patent No. 5,989,289 and the required statutory fee for filing the Terminal Disclaimer. Accordingly, Applicants believe this rejection is overcome and request withdrawal of these rejections.

Rejections under 35 U.S.C. §102(b)

Claims 20-28 were rejected under 35 U.S.C. §102(b) over Carter et al. (WO/97/25,945). Applicants have amended claim 20 to recite that the superior bone engaging surface is substantially planar. Carter et al. discloses a dowel that is cylindrical. Consequently, the bone engaging surfaces are curved. Applicants believe the rejections over claim 20 and over claims 21-28, which depend either directly or indirectly from claim 20, are overcome. Accordingly, Applicants request withdrawal of these rejections.

Previously Cited References

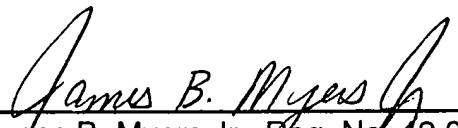
Applicants request that the Examiner consider the references submitted in this case on June 11, 2001, and acknowledge his consideration by initialing the citation form 1449 (modified) submitted with the references and returning a copy of the initialed form to undersigned attorney.

Conclusion

In view of the foregoing remarks, Applicants respectfully submit that the cited references, either singly, or in combination, do not disclose or make obvious the claimed invention. Accordingly, reexamination leading to withdraw of all the outstanding rejections and passage of this application containing claims 1-41 are respectfully requested. Additionally, the Examiner is invited to telephone the undersigned attorney if there are any questions about this submission or other matters, which may be addressed in that fashion.

Respectfully submitted,

By:


James B. Myers Jr., Reg. No. 42,021
WOODARD EMHARDT NAUGHTON
MORIARTY & McNETT
3700 Bank One Center Tower
111 Monument Circle
Indianapolis, IN 46204-5137
(317) 634-3456

**VERSION WITH MARKINGS TO
SHOW CHANGES**

In the Claims

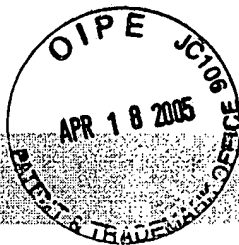
20. (Amended) A bone graft for insertion between adjacent vertebrae, said graft comprising a cortical bone slice from a long bone, said cortical bone slice comprising:

a substantially planar superior bone engaging surface;

an opposite inferior bone engaging surface; and

a wall provided between the superior bone engaging surface and the inferior bone engaging surface, said wall comprising an anterior wall portion having a convexly curved exterior surface, and an opposite posterior wall portion, wherein the graft comprises a first set of migration resistant surface features comprising grooves, teeth, blades or a combination thereof.

24. (Amended) The graft of claim 20 comprising a second set of migration resistant surface features.



#20

RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3738

DNK-1997-010-PA-CON2:JBM:139865

Atty. Dkt. 4002-2236

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)
Bradley J. Coates et al.) Examiner
Serial No. 09/448,086) Isabella
Filed: November 23, 1999)
BONE GRAFTS) Group Art Unit 3738
Submitted)
November 14, 2001)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on November 14, 2001.

JAMES B. MYERS, JR.
Name of Registered Representative

James B. Myers, Jr.
Signature
November 14 2001
Date of Signature

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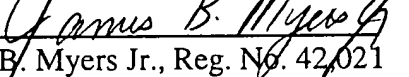
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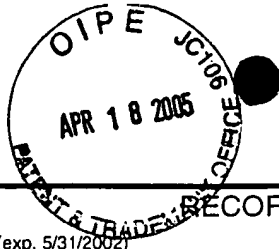
The undersigned hereby represents that the owner, Medtronic Sofamor Danek, Incorporated, has a 100% ownership interest in the above-captioned application and U.S. Patent No. 5,989,289, as indicated by assignment recorded in the U.S. Patent and Trademark Office on August 7, 1998, Reel/Frame 9366/0071 and the copy of the Assignment filed concurrent with this Terminal Disclaimer. The undersigned attorney of record, on behalf of Medtronic Sofamor Danek, Incorporated, hereby disclaims the terminal part of any patent granted on the above-captioned application that would extend beyond the expiration date of U.S. Patent No. 5,989,289, issued November 23, 1999, and hereby agrees that any patent granted on the above-identified patent application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 5,989,289. This disclaimer shall run with any patent granted on the above-captioned application and to be binding upon the grantees, their successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the above-identified patent, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that the granted patent; expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Applicants enclose the statutory fee pursuant to 37 C.F.R. § 1.20 (d) of \$110.00. In addition, please provide any extensions of time that may be necessary and charge any fees that may be due to Deposit Account No. 23-3030, but do not include any payment of issue fees that are or may become due.

Respectfully submitted,

By: 
James B. Myers Jr., Reg. No. 42,021
Woodard, Emhardt, Naughton, Moriarty & McNett
Bank One Center Tower
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137
(317) 634-3456



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Form PTO-1595
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Bradley J. Coates
James Van Hoeck
Jeffrey W. Poynter

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance:

- ☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other _____

Execution Date: October 3, 1997

2. Name and address of receiving party(ies)

Name: SDGI Holdings, Inc.

Internal Address: _____

Street Address: 1800 Pyramid PlaceCity: Memphis State: Tennessee Zip: 38132Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or registration number(s):

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s)
09/448,086

B. Patent No.(s)

Additional number(s) attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: James B. Myers, Jr.

Internal Address: Woodard, Emhardt, Naughton, Moriarty
& McNett

Street Address: Bank One Center/Tower, 111 Monument
Circle, Suite 3700

City: Indianapolis State: Indiana Zip: 46204-5137

6. Total number of applications and patents involved

17. Total fee (37 CFR 3.41).....\$ 40.00

- ☒ Enclosed
☐ Authorized to be charged to deposit account

8. Deposit account number:

23-3030

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9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

James B. Myers, Jr.
Name of Person Signing

James B. Myers Jr
Signature

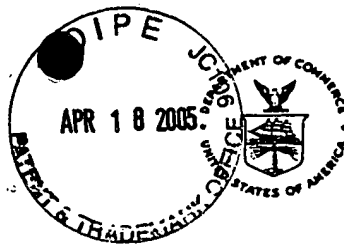
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RECORDATION DATE: 08/07/1998

REEL/FRAME: 9366/0071
NUMBER OF PAGES: 7

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
COATES, BRADLEY J.

DOC DATE: 10/03/1997

ASSIGNOR:
VAN HOECK, JAMES

DOC DATE: 10/03/1997

ASSIGNOR:
POYNER, JEFFERY W.

DOC DATE: 10/03/1997

ASSIGNEE:
SDGI HOLDINGS, INC.
1800 PYRAMID PLACE
MEMPHIS, TENNESSEE 38132

SERIAL NUMBER: 08948135
PATENT NUMBER:

FILING DATE: 10/09/1997
ISSUE DATE:

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Name (line 1) Bradley J. Coates

Execution Date
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Name (line 2)

Second Party

Name (line 1) James Van Hoeck

Execution Date
Month Day Year
10 3 97

Name (line 2)

Receiving Party

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Name (line 1) SDGI Holdings, Inc.

Name (line 2)

Address (line 1) 1800 Pyramid Place

Address (line 2)

Address (line 3) Memphis

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Correspondent Name and Address

Area Code and Telephone Number

(317) 634-3456

Name

J. Andrew Lowes

Address (line 1)

Woodard, Emhardt, Naughton, Moriarty & McNert

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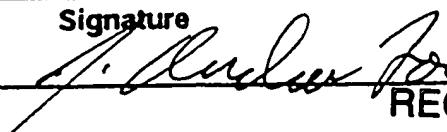
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Name (line 1)

Execution Date
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ASSIGNMENT

WHEREAS, Bradley A. Coates, James Van Hoeck and Jeffery Poyner, of 1760 Nuckolls Road, Rossville, TN 38066; 754 Tealwood Lane, Cordova, TN 38018; and 234 Oxford Drive, Atoka, TN 38004, hereinafter referred to as Assignors, have made a new and useful invention in **BONE GRAFT** for which Assignors have made or will make application for Letters Patent of the United States; and

WHEREAS, SDGI Holdings, Inc., hereinafter referred to as Assignee, a corporation of the State of Delaware having a principal place of business 1800 Pyramid Place, Memphis, TN 38132 desires to acquire all of the entire right, title, and interest in, to and under said invention disclosed, described and claimed or intended so to be in said application, and in, to and under said application, and in, to and under any and all Letters Patent, United States and foreign, which may be obtained therefor and thereon;

NOW, THEREFORE, to all whom it may concern, be it known that for an in consideration of the sum of One Dollar (\$1.00) and other good, valuable and sufficient considerations to Assignors in hand paid, the receipt of which is hereby acknowledged, Assignors have sold, assigned and transferred, and by these presents do sell, assign and transfer unto Assignee, all of the entire right, title, and interest in, to and under said invention disclosed, described and claimed or intended so to be in said application, and in, to and under said application for United States Letters Patent executed by Assignors this 3rd day of October, 1997, and any and all other applications thereon and arising therefrom, including any and all divisions and continuations thereof,

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and any and all patents to be issued and obtained therefor and thereon, United States and foreign, including all reissues and extensions thereof.

Assignors hereby authorize and request the firm of Woodard, Emhardt, Naughton, Moriarty & McNett of Bank One Center Tower, 111 Monument Circle, Suite 3700, Indianapolis, Indiana 46204-5137 to insert here in parentheses (**) the date and serial number of said application when officially known and Assignors hereby authorize and request the Honorable Assistant Secretary and Commissioner of Patents and Trademarks to issue said Letters Patent to Assignee, its assigns and legal representatives.

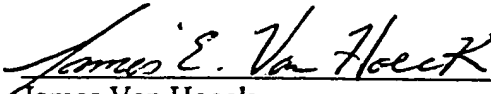
Assignors agree to assign and execute any and all other papers necessary or desirable for the procurement of Letters Patent on said invention in this and all foreign countries for the use of Assignee.

**Serial No. 08/948,135
Filed October 9, 1997

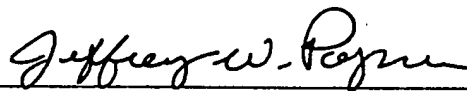
WITNESS Assignors' hands this 3rd day of October, 1997.



Bradley A. Coates
J. B. Coates
J. B. Coates



James Van Hoeck



Jeffery Poyner
Jeffrey W. Poyner J. W. Poyner
J. W. Poyner

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Applicant: COATES, et al.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)
Bradley J. Coates et al.) Examiner
Serial No. 09/448,086) Isabella
Filed: November 23, 1999)
BONE GRAFTS) Group Art Unit 3738

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Name of Registered Representative
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The undersigned hereby represents that the owner, Medtronic Sofamor Danek, Incorporated, has a 100% ownership interest in the above-captioned application and U.S. Patent No. 5,989,289, as indicated by assignment recorded in the U.S. Patent and Trademark Office on August 7, 1998, at Reel/Frame 9366/0071 and the assignment recorded on January 17, 2002 at Reel/Frame 012491/0666 both which are attached to this Terminal Disclaimer. The undersigned attorney of record, on behalf of Medtronic Sofamor Danek, Incorporated, hereby disclaims the terminal part of any patent granted on the above-captioned application that would extend beyond the expiration date of U.S. Patent No. 5,989,289, issued November 23, 1999, and hereby agrees that any patent granted on the above-identified patent application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 5,989,289. This disclaimer shall run with any patent granted on the above-captioned application and to be binding upon the grantees, their successors or assigns.

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Respectfully submitted,

By: 

Kenneth A. Gandy, Reg. No. 33,863
Woodard, Emhardt, Naughton, Moriarty & McNett
Bank One Center Tower
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137
(317) 634-3456



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RECORDATION DATE: 08/07/1998

REEL/FRAME: 9366/0071
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BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
COATES, BRADLEY J.

DOC DATE: 10/03/1997

ASSIGNOR:
VAN HOECK, JAMES

DOC DATE: 10/03/1997

ASSIGNOR:
POYNER, JEFFERY W.

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ASSIGNEE:
SDGI HOLDINGS, INC.
1800 PYRAMID PLACE
MEMPHIS, TENNESSEE 38132

SERIAL NUMBER: 08948135
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Name (line 2)

Second Party

Name (line 1) James Van Hoeck

Execution Date
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Name (line 1) SDGI Holdings, Inc.

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Area Code and Telephone Number (317) 634-3456

Name J. Andrew Lowes

Address (line 1) Woodard, Embardt, Naughton, Moriarty & McNett

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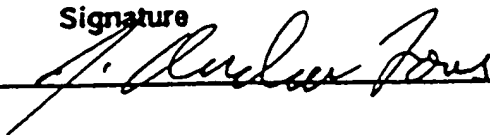
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